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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 595th MEETING

Held at the Vienna International Centre, Vienna,
on Tuesday, 26 March 1996, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

CONTENTS

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (*continued*)

OTHER MATTERS (*continued*)

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (*continued*) (A/AC.105/607 and Corr.1; A/AC.105/C.2/L.182/Rev.3, A/AC.105/C.2/L.197/Rev.1; A/50/20)

1. **Mr. BARSEGOV** (Russian Federation) said that the reference in the wording of the item to the needs of developing countries was an element not found in any of the outer space treaties currently in force. The position adopted on such matters by the Russian Federation had always been to promote the formulation of principles of international cooperation on the basis of realistic guidelines. The principles drawn up by a group of developing countries had been approached by his delegation in a balanced manner with a view to achieving a compromise decision. The first version had contained a number of variations on themes which had become sacred, concerned with the "redistribution" of the benefits of space activity. The present version (document A/AC.105/C.2/L.182/Rev.3) took into account most of the proposals made by delegations and was on the right lines, as was the working paper submitted by Germany and France (A/AC.105/C.2/L.197/Rev.1). As there was a clear convergence of views in the two texts, his delegation proposed that the Chairman of the Working Group on the item should be asked to continue the practice, adopted at the previous session, of elaborating a consolidated text that would enable the Subcommittee to reach agreement on the subject. In his view a compromise was close. There had to be greater balance and equity before the international outer space market could be democratized; the new and unfinalized partnership between the leading space Powers had its limits, since it was not easy to establish norms of equity for corporate interests. The new set of principles should embody specific mechanisms for coordinating and consolidating activities and also for utilizing the combined potential of the developing countries in outer space.

2. **Ms. VENTURINI** (Italy) said that the peaceful uses of outer space and the development of space technology necessitated improved political, scientific and technical cooperation between industrialized and developing countries. Italy expressed its appreciation of the two working papers before the Subcommittee (A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1) and of the contribution made to the debate by the Chairman of the Working Group with his informal working paper (A/AC.105/607, annex II, appendix). Any discussion of the topics concerned must be realistic. Cooperation in outer space activities increasingly involved not just States but private cooperative ventures among industries and carriers, whence the importance of such cooperation taking place in accordance with the relevant norms of international and domestic law. Both the working papers submitted by delegations took account of that and in many respects were convergent. The adoption of a declaration regarding international cooperation in space activities would strengthen confidence-building in space affairs and improve the existing cooperation. She called upon all delegations to contribute, in a spirit of compromise, to the achievement of a consensus so that the conclusion of the consideration of the item would not be delayed further.

3. **Mrs. ÜNEL** (Turkey) said she was not certain where the problem lay regarding international cooperation in the utilization of outer space, and what legal aspects remained to be resolved that were not covered by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. In what context was the agenda item being considered? Was it to develop legal principles that would join the other multilateral instruments on space law, thus contributing to its progressive development, or was it merely to formulate a recommendation by the General Assembly setting out guiding principles? A further question concerned the order of priority of

application of the document being prepared by the Subcommittee, as compared with that of the principles adopted in specific areas such as remote sensing and the use of artificial Earth satellites for direct broadcasting. Her delegation's position on the item depended on the replies given to those questions.

4. Moreover, the 1967 Outer Space Treaty constituted the basic legal framework for the Subcommittee's present and future work and already comprised an obligation for countries active in outer space to cooperate in exchanging information and developing the research activities of all countries. In the light of article I of the Treaty, the embodiment in the working papers of the notion of "developing countries" was inappropriate, because its imprecision would favour developing countries which already possessed considerable capacity in the use of outer space. That would be contrary to the purpose of the Treaty, which in referring to "all countries" contemplated the developing countries as well.

5. **Mr. CELEDÓN** (Chile) said that the session had demonstrated a significant effort on the part of all delegations to narrow their differences. While that was a positive element, the documents before the Subcommittee contained weaknesses that caused his delegation concern. Their basic defect was the lack of an explicit link with key resolutions of the General Assembly, such as resolution 2625 (XXV), containing the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which should be an obligatory framework of reference for any instrument adopted on the subject of outer space benefits. The Declaration identified seven fundamental principles that constituted *jus cogens*, among them the "duty of States to cooperate". It would be more appropriate for the Subcommittee to adopt a set of principles on the subject — as envisaged in the original version of the developing countries' working paper (A/AC.105/C.2/L.182) — than what was now suggested, otherwise the legal content of the statement would be diluted. Even so, it could give rise to customary practice consistent with the spirit of the subject and its doctrine. That would represent a first partial step towards the progressive development of international space law; the fact that international cooperation was enshrined in a solemn declaration of the United Nations would have the merit of demonstrating the genuine will of all nations to collaborate. Chile greatly valued the flexibility demonstrated by delegations in overcoming the points of disagreement which the subject had provoked and it hoped that the Subcommittee would make substantial progress in space cooperation at the present session on the basis of the two working papers before it (A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1).

6. **Mr. DJELANTIK** (Indonesia) said that the two working papers should be amalgamated as a basis for the Subcommittee's further consideration of the issue of space benefits. Its formulation of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries, should consist of a set of legally binding principles governing international cooperation in those areas, rather than be a mere declaration having only political and moral force. In addition, it should respect the sovereign right of all States to decide the form and level of their participation in that cooperation, and give all States, in particular the developing countries, access to the maximum benefit from advances in the exploration and utilization of outer space for their national development and for the promotion of indigenous capacities for cooperation in the application and development of outer space technology.

7. **Mr. SHIRAI** (Japan) said that the two working papers (A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1) were an appropriate basis for constructive discussion of the issues concerned. His country's fundamental long-term policy on space activities, as revised in January 1996, was that Japan would develop its indigenous technology and utilize the results of its space activities for the promotion of space development internationally; and that international space cooperation must be conducted in a

well-organized and stable manner in order to ensure mutual benefits. In promoting that cooperation, Japan would encourage the joint establishment of Earth observation systems, the installation of observation devices on partners' satellites or space probes, the sharing of experimental scientific equipment and observational data and the creation of an Earth and space science information network. It was also part of the policy that, with a view to implementing effective space activities on a world-wide basis, Japan should operate a large-scale space infrastructure through appropriate forms of international cooperation; that, as a member of the Asia and Pacific region, it should take note of the needs of other countries in the region in regard to Earth observation, telecommunications and space environment utilization; and that it should expand its cooperative activities, among other things through the provision of research opportunities in space and through personnel exchange and technology transfer.

8. Bilateral and multilateral cooperation in the exploration and utilization of outer space should be promoted on the initiative of countries concerned and be based on the needs of individual countries. Interference in their activities should be avoided. In the promotion of international cooperation, the aim must be that all countries involved should benefit from it, and that no heavy burden should be imposed on particular countries. That idea was reflected appropriately in the working paper submitted by Germany and France (A/AC.105/C.2/L.197/Rev.1).

9. **Mr. SINGH** (India) said that cooperation among States was essential in order to provide all States with the opportunity to share in outer space benefits; his delegation believed that, in addition to promoting the participation of all States in outer space programmes, such cooperation should assist them to develop their own space programmes. India had an active programme of cooperation with other countries in space science and technology and its application, and had played an active part in the regional space applications programme for sustainable development, providing training for personnel from other developing countries. Data from Indian remote sensing satellites were furnished to other States on mutually agreed terms.

10. His delegation was gratified that the two working papers before the Subcommittee (A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1) had sought to incorporate views expressed at earlier sessions, thus serving to promote consensus. His delegation hoped that a spirit of cooperation would enable the Subcommittee to recommend a simple unified set of principles to the Committee on the Peaceful Uses of Outer Space for adoption by the General Assembly.

11. **Mr. Ho-Jin LEE** (Republic of Korea) said the basis for international cooperation with regard to space benefits was found in article 1 of the 1967 Outer Space Treaty. However, the principle enshrined in that article was stated in general terms only, and some guidance was needed in its implementation. Although the political environment since the end of the cold war had favoured international cooperation in the utilization of outer space, the level of cooperation remained unsatisfactory; there was a reluctance to share space benefits because of the huge outlay involved. Progress in achieving cooperation would depend on the willingness of States with space capabilities to respond to the needs of developing countries. He hoped a compromise could be achieved between those needs and the interests of the developed countries.

12. The two revised working papers before the Subcommittee (A/AC.105/C.2/L.197/Rev.1 and A/AC.105/C.2/L.182/Rev.3) showed considerable potential for convergence. The co-sponsors of the latter paper, all of them developing countries, had incorporated in their text many of the views held by the developed countries. The need being now for a single text, he suggested that the Chairman of the Working Group on the item should endeavour, together with the sponsors of both working papers, to produce a second composite text as a basis for future discussion. That text should reflect the views expressed at the current

session, both in plenary meetings and in the meetings of the Working Group, and might be divided into chapters entitled, for instance, "General principles of international cooperation", "Modes of international cooperation", "Preservation of the outer space environment" and "Areas of international cooperation". The contentious parts of the Chairman's composite text, such as those dealing with transfer of technology, intellectual property rights and the commercialization of outer space activities, might be left in brackets. In concluding, he urged the Subcommittee to expedite its consideration of the item on space benefits, which had been under discussion since 1988.

OTHER MATTERS (*continued*)

13. **Ms. KATO** (Japan) welcomed the progress made during the session in implementing, to practical effect, the recommendations contained in the report of the Committee on the Peaceful Uses of Outer Space on its thirty-eighth session with regard to the working methods of the Committee and its subsidiary bodies (A/50/20, para. 169). The aim of those recommendations was to rationalize the use of conference resources while achieving maximum output, both by the Committee itself and by its subsidiary bodies. The Legal Subcommittee should recommend to the Committee that it give due consideration to the views expressed in the Subcommittee on the improvement of working methods.

14. Among possible measures, the Subcommittee might hold its plenary meetings simultaneously with those of its working groups. A further point was that its sessions should not be scheduled so that they clashed with those of other intergovernmental bodies meeting at the Vienna International Centre. That had happened during the first week of the present session, when a concurrent meeting of the International Atomic Energy Agency (IAEA) had made it necessary for the Subcommittee to postpone until the second week its consideration of agenda item 5, concerning outer space benefits.

15. The efficiency of the Subcommittee's work would also be enhanced by its decision to use unedited transcripts instead of summary records. At its meeting in June 1996, the Committee on the Peaceful Uses of Outer Space should give careful consideration to those aspects of the working methods of the main committee and its subsidiary bodies. The Subcommittee would recall that at its 1995 session the Committee had specifically recommended that overlapping sessions of intergovernmental bodies at the Vienna International Centre should be avoided.

16. **The CHAIRMAN** said that since the Subcommittee had already decided to abandon summary records, there was no sense in that question receiving further consideration. The scheduling of meetings lay outside the question of the working methods of the Subcommittee, since the calendar of United Nations meetings at the Vienna International Centre was drawn up by the General Assembly. Moreover, the United Nations could not intervene in regard to the calendar of IAEA meetings. As far as holding plenary and working group meetings concurrently was concerned, delegations consisting of only one person would find it difficult to attend both. He asked the Secretariat to explain the financial implications of holding meetings in parallel.

17. **Mr. JASENTULIYANA** (Secretary of the Subcommittee) said that meetings held concurrently would cost twice as much because two sets of interpreters would be required.

18. **Mr. LOUET** (France) said that he sympathized with the views expressed by the representative of Japan, but doubted whether the Subcommittee could do much more on its own to improve its working methods than it had done already. The matter was intimately bound up with the working methods of its parent

body and of the other subcommittee. He wondered whether it would be feasible for the Committee and its two subcommittees to meet in sequence over a period of several weeks. That would result in savings, impart more flexibility to their work and restore a sense of unity to the Committee and its two subcommittees, which tended at present to operate as separate entities.

19. **Ms. KATO** (Japan) said that the Subcommittee's decision to use unedited transcripts, instead of summary records, as well as the budgetary implications of that step, should be properly reflected in the relevant United Nations documents. That had not been the case with the decision to the same effect taken by the Committee on the Peaceful Uses of Outer Space. It might even be possible to dispense with unedited transcripts if the Subcommittee was able to rely on a comprehensive report of its proceedings, produced by the Secretariat. On the question of simultaneous meetings, she believed the Subcommittee was free to decide, if it so wished, to dispense with interpretation altogether in its working groups.

20. **The CHAIRMAN** observed that the question of summary records was no longer on the Subcommittee's agenda. As to the suggestion that plenary meetings of the Subcommittee might be held in tandem with working group meetings, that would preclude any interaction between the two: in fact, without written records, participants in working group meetings would not even know what had been said in plenary. Nor was it feasible for working groups to meet without interpretation. Every delegation was entitled to hear proceedings in any of the official languages and drafting would become impossible without interpretation.

21. With regard to the suggestion made by the representative of France, it must be borne in mind that the period intervening between the session of the Scientific and Technical Subcommittee and that of the Legal Subcommittee was useful to delegates in preparing for the latter. If both subcommittees met during the same period, a full year would elapse before the results of the work of the Scientific and Technical Subcommittee could be reflected in the work of the Legal Subcommittee. Certainly there might be advantages in organizing sessions that way, but the Subcommittee should bear in mind the concomitant disadvantages.

22. **Mr. SCHEPISI** (Italy) said he believed that the statements by the delegations of France and Japan reflected a general uneasiness about the relationship between the length of sessions and the agenda. It was important to avoid a situation in which the Legal Subcommittee was held up in other bodies as an example of wasteful expenditure. The proposals by the delegate of Japan were intended not only to shorten the duration of sessions but also to make the proceedings more vigorous and better focused. His delegation wished the Subcommittee to convey a message to the Committee on the Peaceful Uses of Outer Space regarding the appropriateness of shorter sessions in line with the practice in other comparable bodies.

23. **The CHAIRMAN** said that the persistent divergence of views in the Subcommittee seemed to preclude the submission of a consensus recommendation to the Committee regarding the duration of the Subcommittee's sessions. The flexible option of tailoring the duration of sessions to the amount of time needed for a full discussion of all agenda items seemed a practical solution that had no adverse financial implications. The existing unwillingness to schedule a two-week session obviously stemmed from a lack of confidence that additional time would subsequently be made available to deal with a more demanding agenda. He reassured the delegate of Italy that all positions on the question of the duration of the Subcommittee's sessions would be reflected in its report to the Committee on the Peaceful Uses of Outer Space, which would take up the matter in the absence of a consensus in the Subcommittee.

24. **Mr. KIM** (United States of America) said that the ultimate aim of all participants in the present debate was to enhance the efficiency and effectiveness of the Subcommittee's work.

25. **Mr. SINGH** (India) said that he fully agreed with the Chairman's comments. He was concerned about the need for some kind of record of the Subcommittee's sessions, bearing in mind that sessional reports did not identify the originators of particular ideas or opinions. Regarding the duration of sessions, his delegation had already expressed support for the flexible option, which involved deciding at the beginning of each session on the amount of time required to deal with the business on the agenda. He asked for clarification of the comment made by the Secretary at the 593rd meeting (A/AC.105/C.2/SR.593, para. 31) to the effect that no savings would be achieved by reducing the session to two weeks.

26. **Mr. JASENTULIYANA** (Secretary of the Subcommittee) said that savings corresponding to a week of conference service costs would in fact be made if the proceedings were concluded at the end of the second week.

27. **Mr. McINTOSH** (Australia) said that there was no universal requirement for written records in United Nations bodies. The practice in some bodies was to make do with a sessional report.

28. **The CHAIRMAN** said that the majority of United Nations bodies had either summary or verbatim records. The Legal Subcommittee was ahead of the field in opting for unedited transcripts. It would be interesting to see how delegations reacted to unpolished transcripts of their statements. They might feel that no record at all was preferable. On the other hand, when the time came to draft important instruments of space law, the Subcommittee might decide that summary records were necessary to ensure that its proceedings were properly reflected.

29. **Mr. FIUZA NETO** (Brazil) said that his delegation would agree to a shortening of the duration of sessions only on an ad hoc basis. The Subcommittee should continue to reflect on the matter in the light of a thorough examination of the possibility of new agenda items.

30. **Mr. Ho-Jin LEE** (Republic of Korea) asked whether the Subcommittee itself was competent to take a decision regarding the duration of its sessions. If so, his delegation proposed that such a decision should be taken under the present item.

31. **The CHAIRMAN** said that the Subcommittee was not competent to decide itself on the duration of its sessions. Any recommendation on the matter to the Committee on the Peaceful Uses of Outer Space would, of course, be welcome, but in the absence of a consensus the only possible procedure was that the Subcommittee's report should reflect the two positions expressed in the discussion. On the other hand, even if the General Assembly, on the Committee's recommendation, decided in favour of a three-week session, the Subcommittee was under no obligation to utilize the full three weeks.

32. **Mr. CELEDÓN** (Chile) said that it was important for the Subcommittee to determine what new items should be included in the agenda to replace items about to be removed or items held in suspense.

33. **Mr. ARRIAGA** (Mexico) said his delegation believed that any shortening of the session might be detrimental to a full discussion of existing agenda items or to the inclusion of new items. It therefore preferred to maintain the existing arrangements, which were based on the principle of flexibility.

34. **Mr. LOUET** (France) suggested that the Subcommittee might recommend to the Committee that any decision on the duration of the session should depend on the content of the Subcommittee's agenda, which should have become clear by the time the Committee met for its June 1996 session.

35. **The CHAIRMAN** suggested that delegations should use the time remaining before the next session of the Committee to reflect further on the question of the duration of the Subcommittee's sessions and possible new agenda items, with a view to reaching a consensus on the matter.

36. *It was so decided.*

The meeting rose at 12.10 p.m.